

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

JAMES LAMONT RICHARDSON,	)	No. CV-F-02-5814 OWW
	)	(No. CR-F-97-5129 OWW)
	)	
Petitioner,	)	MEMORANDUM DECISION AND
	)	ORDER DENYING PETITIONER'S
vs.	)	MOTION FOR RECONSIDERATION
	)	PURSUANT TO RULE 60(b)(2),
	)	FEDERAL RULES OF CIVIL
UNITED STATES OF AMERICA,	)	PROCEDURE, AND DIRECTING
	)	CLERK OF COURT TO RE-SERVE
	)	NOVEMBER 30, 2007 MEMORANDUM
Respondent.	)	DECISION AND ORDER (Doc.
	)	371) ON PETITIONER
	)	

By Memorandum Decision and Order filed on November 30, 2007, (doc. 371), the Court denied Petitioner James Lamont Richardson's motion for extension of time to file a motion pursuant to 28 U.S.C. § 2255 and his Section 2255 motion. The Memorandum Decision and Order was served on Petitioner by mail at USP Beaumont, Beaumont, Texas on November 30, 2007. Service of the Memorandum Decision and Order was not returned by the institution as undeliverable.

1 On May 19, 2008, Petitioner filed a notice of change of  
2 address, notifying the Court that his address now is the United  
3 States Federal Penitentiary McCreary, Pine Knot, Kentucky.

4 On July 7, 2009, Petitioner filed a motion for  
5 reconsideration of "his pending motion under section 2255, in  
6 accordance with Fed. R. Civ. Proc. Rule 60(b)(6), insofar as  
7 failure to service pleading." Petitioner asserts that he has  
8 not been served with any orders resolving his Section 2255  
9 motion.

10 The Court's docket establishes that Petitioner was served  
11 with the Memorandum Decision and Order by mail on November 30,  
12 2007.

13 Petitioner further asserts:

14 In or about October 2007, USP Beaumont,  
15 experienced a tumultuous rash of violence  
16 that lead to several prison lock downs and  
17 eventually a joint investigation by the  
18 Federal Bureau of Investigation and the  
19 Bureau of Prisons. Based upon prison related  
20 murders, etc., the Federal Bureau of Prisons  
21 kept USP Beaumont under severe restraints and  
22 eventually a change in the BOP's custody  
23 classification of the entire prison. Such  
24 change resulted in several inmates being sent  
25 to a variety of penitentiaries. Petitioner  
26 was classified as a High Security inmates was  
placed in transit by the BOP to USP McCreary,  
located in Pine Knot, Kentucky. While in  
transit neither the BOP or the holding  
facilities where he was placed afforded him  
mail or communication effective to  
communicate with the court etc. Though,  
Petitioner repeatedly requested legal calls  
or adequate assess to legal materials to  
retrieive the correct address to this court.

Therefore, from October 2007, Petitioner was  
left in complete communique with the needed

1 resources to notify this court of his status  
2 or his inquiry with his pending Section 2255  
3 motion. It is the circumstance upon which  
4 Beaumont's prison lock down and a transfer by  
5 the BOP that Petitioner now complains  
6 prevented any reasonable means by which to  
7 effectuate communication with this court  
8 regarding his pending Section 2255. For this  
9 vary reason Petitioner submits his newly  
10 known address and his now Rule 60(b) motion  
11 seeking this court's permission to reopen 'if  
12 necessary' his case. [SIC]

13 According to the BOP, Petitioner was transferred from USP  
14 Beaumont on April 2, 2008 and arrived at USP McCreary on April 3,  
15 2008. According to the Council of Prison Locals 33 website, USP  
16 Beaumont was on lockdown from November 28 to December 10, 2007,  
17 on January 25 and on February 12, 2008, thereby raising  
18 substantial doubt that Petitioner was unable to contact the Court  
19 or that mail service was interrupted. Further, by the time  
20 Petitioner filed the Notice of Change of Address, Petitioner had  
21 already been served with the Memorandum Decision and Order.

22 Petitioner's motion for reconsideration to re-open, if  
23 necessary, his Section 2255 motion is DENIED as moot. The motion  
24 was resolved by the November 30, 2007 Memorandum Decision and  
25 Order.

26 The Clerk of the Court to serve the November 30, 2007  
Memorandum Decision and Order on Petitioner at his current  
address.

IT IS SO ORDERED.

Dated: July 9, 2009

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE